

## **REMARKS**

**Claims in the Application.** Claims 106, 109, 110, 112, 114, 115, 119, 122, 124, 130, 131, 135, 137, 138, 152, 160, 161, 163-165, 167, 176, 181 and 185 have been amended. Claims 106-110, 112, 114-116 119, 122-131, 135-139, 145, 150-154, 160-168, 170, 175-179 and 181-190 are active in this application. Reconsideration is respectfully requested.

**Telephonic Interview on November 18, 2009.** Applicants' attorney wishes to thank Examiner Feely for the most helpful and courteous interview which was extended on Wednesday, November 18, 2009. The participants at the interview included Harold Brannon, co-inventor of this application, D.V. Satyanarayana Gupta, co-inventor of this application, Margaret Kirick, Chief Intellectual Property Counsel of BJ Services Company, the assignee of record of this application, and the undersigned. Applicant's attorney briefly discussed each of U.S. Patent No. 4,923,714 ("*Gibb I*"), U.S. Patent No. 4,632,876 ("*Laird*"), US. Patent No. 4,869,960 ("*Gibb II*") and U.S. Patent No. 6,059,034 ("*Rickards*"). A summary of the discussion is set forth in the paragraphs below. Claim amendments, made herein, were further discussed. The Examiner indicated that such claim amendments would distinguish over each of the cited references.

**Examiner's Rejection Under 35 USC § 102(b)/103(a) Over *Gibb I*.** The Examiner has rejected claims 106-110, 112, 114-116, 119, 122, 130, 131, 135, 160, 170 and 186 under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC 103 § as being obvious over *Gibb I*. *Gibb I* is drawn to porous particulates of *closed cell porosity*. The claims of Applicants are directed to porous particulates of *open-celled porosity*. The claims of Applicant recite the porous particulate material as having "inherent or induced fluid permeability". See, p. 10, ll. 17-19 of the originally filed specification where such porosity is defined as that wherein interconnected pore spaces permit fluid to at least partially move through the porous matrix of the particulates. In contrast, closed-cell porous materials have internal voids with closed walls which are not permeable to gas or liquids. Closed-cell porosity is not interconnected porosity.

**Examiner's Rejection Under 35 USC § 102(b)/103(a) Over *Laird*.** The Examiner has also rejected claims 137-139, 145, 181-185 and 190 under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103 as being obvious over *Laird*. Like *Gibb I*, *Laird* only discloses ceramics which exhibit closed cell microporosity. In fact, *Gibb I* references *Laird* in its discussion of closed-cell porosity.

**Examiner's Rejection Under 35 USC § 102(b)/103(a) Over *Gibb II*.** The Examiner has further rejected claims 106-110, 112, 114-116, 119, 122, 130, 131, 135, 160, 170 and 186 under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103 as being obvious over *Gibb II*. *Gibb II* is directed to a method for modifying the closed cell particulates of *Laird*. See, col. 2, ll. 5-6 and col. 6, ll. 6-7. As such, the claims of Applicants are distinguishable over *Gibb II*.

**Examiner's Rejection Under 35 USC § 103(a) Over *Rickards*.** The Examiner has also rejected claims 161-168 as being unpatentable under 35 USC § over *Rickards*. It is believed that the amendments to the claims render a discussion of this rejection unnecessary.

**Examiner's Rejections Under 35 USC § 103(a) Over *Gibb I* and *Gibb II*; and *Brannon* in view of *Gibb I* or *Gibb II* or *Laird*.** The Examiner has also rejected claims 161-168 as being unpatentable under 35 USC § 103 over *Gibb I* or *Gibb II* and claims 123-129, 136, 150-154, 175-179 and 187-189 as being unpatentable under 35 USC § 103 over U.S. Patent No. 6,364,018 ("*Brannon*") in view of *Gibb I* or *Gibb II* or *Laird*. *Brannon* is related to *Rickards*. The deficiencies of *Rickards* are discussed *supra*. Each of these claims is distinguishable for reasons stated *supra*, alone and in combination of each other. Reconsideration is therefore respectfully requested.

**Examiner's Rejection on the Ground of Double Patenting.** The Examiner has rejected claims 161-168 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 95-97 of *Rickards*. This ground of rejection is also traversed. Claim 95 of *Rickards* recites a "blend of deformable particulate material and fracture proppant material, wherein at least a portion of individual particles of said deformable particulate material each comprises multiple components." Claims 161-168 exclude agglomerated particulates. Further, Applicants have also demonstrated that the claimed coating layer of thickness of 1 to 5 microns of claim 161 would not render the deformability referenced in *Rickards*. Reconsideration of the rejection is therefore respectfully requested.

**Conclusions.** In view of the foregoing amendment and remarks, it is respectfully submitted that this application is in condition for allowance. Issuance of a Notice of Allowance is therefore respectfully requested.

Respectfully submitted,

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/John Wilson Jones, Reg. 31380/  
John Wilson Jones  
Registration No. 31,380

Jones & Smith, LLP  
2777 Allen Parkway, Suite 800  
Houston, Texas 77019  
Telephone: (713) 528-3100  
Facsimile No.: (713) 893-6076